UNITED
NATIONS

HRI

International
Human Rights
Instruments

Distr.
GENERAL

HRI/CORE/1/Add.33
5 October 1993

Original: ENGLISH

CORE DOCUMENT FORMING PART OF THE REPORTS OF STATES PARTIES

NEW ZEALAND

[28 September 1993]

I. LAND AND PEOPLE

1. Land: New Zealand, situated in the south-west Pacific Ocean, midway between the equator and the South Pole, is made up of two main islands - the North and South Islands - and a number of smaller islands. Its total land area is 270,534 sq km (i.e. similar in size to Japan or the British Isles). New Zealand's nearest neighbours to the north are New Caledonia, Fiji and Tonga, and Australia to the west. It is an area of the world characterized by active volcanoes and frequent earthquakes. The boundary between the Indo-Australian plate and the Pacific plate runs through New Zealand and the processes from their collisions have had a profound effect on New Zealand's size, shape and geology. The Southern Alps of the South Island, which rise amid permanent snow fields and many glaciers, include 19 peaks exceeding 3,000 metres. The two main islands cover 1,600 km from the northern tip to the southern extremity, with no part more than 120 km from the surrounding ocean. The long coastline and the distance from the nearest neighbouring countries contribute to giving New Zealand the fourth largest maritime Exclusive Economic Zone in the world. The Ross Dependency in Antarctica is also part of New Zealand.

2. New Zealand has jurisdiction over the non-self-governing territory of Tokelau. Niue and the Cook Islands are self-governing States in free association with New Zealand.

3. History: The first Polynesian settlers are believed to have arrived in Aotearoa/New Zealand more than 1,000 years ago. Maori settlements were scattered over most of the country by the twelfth century. In 1642 Aotearoa was sighted by Dutch navigator Abel Tasman, but it was a further 127 years, in 1769, before British naval captain James Cook became the first European to set foot in New Zealand. Organized European settlement began in the mid-nineteenth century.

4. In 1840 the Treaty of Waitangi was signed between iwi Maori (the indigenous tribes of New Zealand) and the British Crown. This Treaty is the founding document of modern New Zealand. (See paras. 45-46 below.)

5. Main ethnic and demographic characteristics: New Zealand has passed through a demographic transition similar to those experienced by other developed countries. The population has become highly urbanized, the average family size reached a historical low in 1983 but is again rising, and the number of elderly is increasing. Slow population growth is projected and steady ageing of the population will continue. A particular characteristic of the New Zealand experience is the growing diversity of ethnic groups, and those of non-European descent making up a growing proportion of the resident New Zealand population.

6. Population: New Zealand's resident population was 3.37 million at the last five-yearly census in 1991. The population density is 12.25 per sq km. New Zealand's resident population at 31 March 1993 was estimated to be 3,449,900.

7. Ethnic composition: New Zealanders of European descent or born in Europe made up 79.5 per cent of the resident population at the 1991 census; 12.9 per cent of the population are Maori or part-Maori. The third main ethnic group is Pacific Islanders, with 5.0 per cent of the population identifying themselves as belonging to that group at the last census. A range of smaller ethnic groups make up the remainder of the resident population, the largest being Chinese, followed by Indian.

8. A breakdown of the population by ethnic group follows. The table compares the figures at the 1986 and the 1991 censuses. These figures suggest that New Zealand's racial mix has undergone recent change. Part of this, however, may be explained by the different methodology used at the 1991 census. The same response was not always provided by people in 1991 when identifying their ethnic group(s) as they gave in 1986 when asked their ethnic origin(s). This meant, for example, that anyone who identifies as Maori, even with only distant Maori ancestry, can belong to the Maori ethnic group. In addition, the category "New Zealand European" was used for the first time. This has meant that persons identifying as Dutch, for example, would now be included in the "other ethnic origin" group rather than in the "New Zealand European" group. The 1996 census will use the same methodology as the 1991 census and should therefore provide a more consistent picture of New Zealand's changing ethnic mix.

Ethnic group	Distribution (per cent)	
	1986	1991
Single ethnic groups		
European	82.2%	79.5%
NZ Maori	9.2%	9.7%
Pacific Island	3.0%	3.8%
Chinese	0.6%	1.1%
Indian	0.4%	0.8%
Other	0.4%	0.8%
Total one ethnic group	95.7%	95.7%
Two or more ethnic groups		
European/NZ Maori	2.9%	2.8%
European/Pacific Island	0.5%	0.5%
European/Indian, Chinese of Other	0.2%	0.2%
Maori/Pacific Island	0.2%	0.3%
Other combinations	0.3%	
Total two or more ethnic groups	4.3%	4.3%

9. The (single) ethnic groups with the largest increases between the 1986 and 1991 censuses were New Zealand Maori (28,000), Samoan (18,000), Chinese (18,000), Indian (15,000) and Tongan (9,000).

10. The proportion of women with non-European ethnicity increased from 17.7 per cent at the 1986 census to 20.8 per cent in 1991. The proportion of Pacific Islands women increased from 2.9 per cent to 3.9 per cent over the same intercensal period.

11. There has also been a significant increase in the number of immigrants living in New Zealand. The number of New Zealanders born overseas increased from 14.9 per cent of the resident population in 1986 to 15.8 per cent in 1991. Those born in the Philippines and Hong Kong showed the biggest increases, growing by 253.8 per cent and 162.0 per cent respectively.

12. Sex of the population: Women made up 50.7 per cent of the resident population in 1991. Projections indicate that women will continue to outnumber men into the next century. There are large variations in the sex ratios of the various ethnic groups.

13. Age of population: In 1991 23.2 per cent of the resident population of New Zealand were children under 15 years of age, 61.4 per cent of the population were aged 15-59, and 15.4 per cent were 60 years and over. The median age was 31.4 years.

14. Age differences in ethnic groups: In general ethnic minorities, which have a history of recent immigration or high fertility rates, have a more youthful age structure than New Zealand Europeans. At the 1991 census Tongans were the youngest, with 41.3 per cent of their population under 15. Similarly 37.5 per cent of the New Zealand Maori population were under 15. New Zealand Europeans were the oldest, with only 22.1 per cent under 15 years of age.

15. Women in the European ethnic groups were generally older, on average, that those of New Zealand's other ethnic groups. In 1986, New Zealand Maori and Pacific Island women were the youngest, with median ages of 21.9 years and 23.3 years respectively. Indian women had a median age of 25.7, while Chinese women had a median age of 28.6 years. European women had a median age of 33.3 years. These differences reflect variations in fertility, mortality and migration patterns.

16. Economy: New Zealand is a developed country with a market economy heavily dependent on overseas trade. Since the 1980s New Zealand, like many other countries, experienced a sustained period of economic downturn. By most measures living standards remained reasonably high, though these economic difficulties and changing patterns of global trade did lead to a decline in per capita incomes (from one of the highest levels in the Organisation for Economic Cooperation and Development to eighteenth place by the early 1980s).

17. In 1984 a major economic liberalization programme was initiated. Economic policy has been significantly reorientated towards establishing a market-orientated economy and redressing macroeconomic imbalances. Structural reform has been rapid and broad-based and has been accompanied by a medium-term anti-inflationary financial strategy. The repercussions of structural reforms have been pronounced. One consequence of the adjustment process has been a significant fall in employment, although the counterpart has been improved productivity and the benefits are now becoming apparent as the economy once again becomes internationally competitive.

18. The New Zealand economy continues to be largely based on the export of primary produce - wool, meat, dairy products, fish and forest products. Agricultural exports accounted for almost half of the nation's export earnings. New Zealand is one of the world's largest exporters of wool, and the largest single country exporter of dairy products, lamb and mutton. Grassland farming remains New Zealand's most important industry, producing meat and wool from more than 50 million sheep and meat and dairy products from more than 8 million cattle. Newer types of pastoral production such as deer farming are growing in importance. Exports of manufactured goods continue to increase. Horticulture and tourism are also becoming increasingly important export earners.

19. Per capita income: The median annual gross income in 1991 was $14,775 for New Zealand Europeans and $11,001 for New Zealand Maori. There are also still large differences in men's and women's median annual incomes, i.e. $19,243 for men in 1991 compared to $11,278 for women, or an average before-tax weekly regular income of $283 for women, and $519 for men. The major reason for this difference is the gender difference in participation in

paid and unpaid work. A comparison of average ordinary time hourly rates from the Quarterly Employment Survey indicates that as at February 1993 women were earning approximately 81 per cent of men's rates.

20. Gross Domestic Product: GDP for the year ending March 1992 was NZ$ 73,213 million, a 0.2 per cent drop on the 1991 figure.

21. Rate of inflation: In March 1993 the annual rate of inflation was down to 1 per cent, a significant drop from the 1985 level of 13.4 per cent. New Zealand currently has one of the lowest inflation rates of the OECD countries.

22. External debt: Total overseas debt at 31 March 1993 stood at NZ$ 65,315 million. Of this, $26,729 million was government debt.

23. Rate of unemployment: The official number of unemployed as at the March quarter 1993 stood at 168,400, or 10.2 per cent of the labour force. (The official unemployed are defined as those out of work, actively seeking work and available for work.) Of this total, 99,300 were males (or 10.7 per cent of the male labour force), and 69,100 were females (or 9.7 per cent of the total female labour force). Both New Zealand Maori and Pacific Islanders have proportionally much higher levels of unemployment, especially in the 15-19 age groups. The total number of Maori unemployed stood at 33,400 (or 23.8 per cent of the total Maori labour force) and the total number of Pacific Islanders unemployed was 16,000 (or 26.6 per cent of the total Pacific Islands labour force).

24. Literacy rate: New Zealand has no official measure of adult literacy, but is internationally recognized as having a high level of literacy for both men and women. English language courses for new immigrants are widespread, and English as a Second Language courses are offered in a number of secondary schools. Adult Reading and Learning Assistance Federation (ARLA) provides tuition to over 4,000 adults nationally, one third of whom are women. Literacy programmes are also run in New Zealand prisons.

25. Religion: In the 1991 census, 78 per cent of the population claimed a religious affiliation. Most of these are Christian, mainly Anglican, Presbyterian, Methodist or Roman Catholic. The largest non-Christian religions were Hinduism, Buddhism, Judaism and Islam, with all except Judaism doubling their number of adherents since the previous census in 1986.

26. Population by mother tongue: English is the principal language used by the majority of the population, and in public life. Maori is the language of the tangata whenua (the indigenous people) of New Zealand. It is a taonga (treasure) under the terms of the Treaty of Waitangi, and became an official language of New Zealand by virtue of the Maori Language Act 1987. The Act also provides that people may speak Maori in any legal proceedings and that a competent interpreter be made available. It is estimated that there are about 50,000 fluent speakers of Maori. All school students are given the opportunity to acquire some knowledge of Maori. Students whose mother tongue is a Pacific Island language or another community language are also to be given the opportunity to develop and use their own language as an integral part of their schooling.

27. Life expectancy: Life expectancies at birth for 1985-1987 were as follows:

Non-Maori females 77.4 years
Maori females 72.3 years
Non-Maori males 71.4 years
Maori males 67.4 years

28. Heart disease, cancer and cerebrovascular diseases (in that order) continue to be the three leading causes of death, and account for three out of five of all deaths among the adult population in any year. Respiratory diseases cause another 10 per cent. Motor vehicle accidents account for 3 per cent, with teenagers and those in their early twenties accounting for over 80 per cent of these fatalities.

29. Infant mortality: The infant mortality rate was 7.3 per 1,000 live births for the calendar year 1992. Neonatal mortality accounted for almost half of the infant mortality rate (3.6 deaths per 1,000 live births).

30. Direct maternal deaths: (e.g. due to complications of pregnancy, childbirth and the immediate post-partum period) were 1.16 per 10,000 live births.

31. Fertility rate: Live births registered in the calendar year 1992 totalled 59,266, i.e. a crude birth rate of 17.2 per 1,000 mean population. Average family size as implied by the total fertility rate (TFR) stood at 2.12 births per woman, which is only marginally above replacement level. The TFR for Maori is approximately 7 per cent higher than their non-Maori counterparts, while the median child-bearing age for Maori women in 1992 was 24.8 years compared with 28.5 years for non-Maori.

32. Age distribution: The New Zealand population is "ageing". The median age in New Zealand was 32.0 years at 31 March 1993 compared to 28.2 years in 1981. The middle-aged and elderly make up the largest sectors of society: 29.3 per cent of New Zealanders were in the 35-59 year age group, an increase of 13.8 per cent over the 1981 census proportion, and 15.7 per cent were over 60 years, an increase of 11.8 per cent over the 1981 proportion. By comparison, the proportion of young adults (20-34 years of age) remained largely unchanged between 1981 and 1993, at approximately 24 per cent of the total population.

33. Youth structure: An estimated 1,076,860 persons, or 30.8 per cent of the total New Zealand population, were under 20 years of age at 31 March 1993. This was 79,640, or 6.9 per cent fewer than at the 1981 census when 36.4 per cent of the population was under 20 years of age. Between 1981 and 1993 the number of 5-14 year olds is estimated to have declined by 79,780 (or 13.4 per cent) while the number of 15-19 year olds declined by 35,930 (or 11.7 per cent). These declines were partially offset by a 14.3 per cent increase in the number of children aged 0-4 years, reflecting an upswing in births during the 1980s.

34. Percentage of population in rural areas and in urban areas: Although New Zealand is a predominantly rural country in terms of its land use, only 15 per cent of the population was estimated to be living in rural areas (defined as areas where the largest population centres contain less than 1,000 people) at 31 March 1992; 68 per cent of the population lives in "main" urban areas (i.e. centres with 30,000 people or more). Auckland's urban area is the single largest urban agglomeration with an estimated population of 896,200. At the 1991 census 167,070 or 12.7 per cent of Auckland's population belonged to the Pacific Island ethnic group.

35. Percentage of households headed by women: At the 1991 census there were 151,755 one-parent families in New Zealand, of which 82 per cent were being maintained by a woman. Sole mother families made up 20 per cent of total families with dependent children (i.e. under 16 years, or between 16 and 18 years and still at school), while 8 per cent of all households comprised a woman and her child(ren) living alone. An additional 3 per cent of households included a sole-mother family, but with other persons also residing there (including other families). Although they were the fastest growing family and household type between the censuses of 1986 and 1991, there are indications since 1991 that one-parent family growth is now slowing.

II. GENERAL POLITICAL STRUCTURE

36. The supreme legislative body in New Zealand is the New Zealand Parliament which comprises Her Majesty the Queen (who is usually represented by the Governor-General) and the single-chamber, 97-member, House of Representatives.

37. The principal functions of Parliament are:

(a) To make laws and delegate law-making powers to the Executive;

(b) To scrutinize and control Government (annual grant of financial authority, scrutiny of delegated powers and functions);

(c) To provide a Government; and

(d) To represent the Government and the people of New Zealand.

38. Under the existing electoral system the Government is formed, on the invitation of the Governor-General, from the members of the majority party in Parliament with the leader of that party becoming Prime Minister. Governments in the past have been formed from the two main parties, the National and the Labour parties. The Cabinet, all of whom are elected members of the House of Representatives, supervises the administration of government. In the National Party, Cabinet Ministers are appointed by the Prime Minister. In the Labour Party, Ministers are elected to cabinet by caucus in a secret ballot, but are appointed to portfolios by the Prime Minister.

39. New Zealand is currently addressing the possible reform of the electoral representation system. A national referendum in 1990 indicated interest in changing from the current first-past-the-post electoral system to a

proportional representation system. A binding referendum will be held in 1993 to determine whether New Zealand will adopt mixed member proportional representation (MMP).

40. Cabinet, the public service and a number of bodies connected to Government form the executive. Generally, each Minister is appointed as the political head of a particular government department or departments. In addition, each government department has a public servant as its administrative head.

41. The courts, which operate on an adversarial system, comprise the judicial branch of Government. New Zealand's highest court is the Judicial Committee of the Privy Council which sits in London as the final court of appeal for New Zealand. It usually considers only two or three New Zealand cases each year. Debate continues on the desirability of the appeal link to the Privy Council. Beneath the Privy Council is the New Zealand Court of Appeal which is the final court of appeal for most cases. Below the Court of Appeal is the High Court which is New Zealand's only court of unlimited jurisdiction. It hears the most serious jury trials and civil cases as well as many administrative law cases.

42. Below the High Court are the District Courts. They deal with a large number of criminal and civil cases and conduct some jury trials. The Family Court, a division of the District Court, deals with matters of family law. In addition, there are a number of specialist courts and tribunals.

43. The courts act as a curb on the power of the Government by ensuring that the Government acts in accordance with the law. However, since in the New Zealand system of Government Parliament is supreme, the courts are bound by statute and cannot strike down the provisions of any Act of Parliament.

44. The laws of New Zealand consist of:

(a) The common law, sometimes referred to as "judge-made law", which has been developed by the courts of England during New Zealand's time as a British colony and the courts of New Zealand; and

(b) Statute law enacted by the New Zealand Parliament. (The Statute of Westminster Adoption Act 1947 gave the New Zealand Parliament the sole authority with inherent jurisdiction to legislate for New Zealand. A small number of British statutes and subordinate legislation which were passed prior to 1947 are also declared to be part of the laws of New Zealand by the Imperial Laws Application Act 1988.)

The common law relates to the interpretation of statute law and to developing the general law based on fundamental legal principles. Statute law includes Acts of Parliament and delegated legislation made under those Acts.

The Treaty of Waitangi

45. The Treaty of Waitangi, signed in 1840 between representatives of the British Crown and Maori hapu and iwi, established the legal basis for the settlement of New Zealand, and protected the rights and properties of the indigenous Maori inhabitants.

46. The last decade has seen a greater prominence given to the Treaty of Waitangi as a basis for settling Maori claims against the Crown. Debate on the place and role of Maori people in New Zealand society has increased considerably and successive governments have continued to develop their policies on Maori affairs.

47. The Waitangi Tribunal was established by the Treaty of Waitangi Act 1975 to make recommendations to the Crown on claims relating to the Treaty. A 1985 amendment allowed for claims to be retrospective to the signing of the Treaty in 1840.

48. The work of the Waitangi Tribunal is developing the contemporary meaning of the Treaty. This work is wide-ranging and is having a profound and continuing influence on the way New Zealand is learning to see itself. The Treaty is now widely accepted not only as the founding document of the nation, but also as the most important instrument in the continuing evolution of relations between Maori and non-Maori. As the Waitangi Tribunal says to describe its work: "The Treaty is always speaking".

48. In a landmark Court of Appeal case in 1987 the special relationship between the Maori people and the Crown was interpreted by the Court as requiring the partners to act reasonably and with the utmost good faith towards each other. A number of Acts of Parliament now require the Crown to have regard to the principles of the Treaty of Waitangi, or to Maori interests or a Maori perspective. Successive governments have negotiated with iwi to attempt to resolve grievances concerning breaches of the Treaty.

49. The current Ministry of Maori Development - Te Puni Kokiri - was established in 1992, replacing earlier government bodies dealing with Maori affairs. The purpose of Te Puni Kokiri is to promote higher levels of achievement for Maori by improving education, employment, health and economic opportunities. The Ministry of Women's Affairs, through its Maori women's policy unit, Te Ohu Whakatupu, gives advice to Government on the status of Maori women and the impact of government policy on them.

III. GENERAL LEGAL STRUCTURE WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

A. Judicial, administrative or other competent authorities with jurisdiction affecting human rights

50. The key pieces of legislation in this regard are described in the following paragraphs.

The New Zealand Bill of Rights Act 1990

51. This Act was designed to affirm, protect and promote human rights and fundamental freedoms in New Zealand and to affirm New Zealand's commitment to the International Covenant on Civil and Political Rights. The Act applies to acts done by the legislative, executive or judicial branches of the Government of New Zealand or by any person or body in the performance of any public function, power or duty conferred or imposed on that person or body by or pursuant to the law. The Attorney-General is required, on the introduction of a bill, to bring to the House of Representatives' attention any provision that appears to be inconsistent with any of the rights and freedoms contained in the Bill of Rights.

The Human Rights Commission Act 1977

52. This Act established the Human Rights Commission and gave it the power to investigate alleged discrimination on the grounds of colour, race, ethnic or national origin, sex, marital status, age, religious or ethical belief. These grounds apply largely but not wholly to such fields as employment, professional and trade organizations, access to public places, provision of goods and services, land and accommodation, educational establishments and advertising. The Human Rights Commission also has the general function of promoting, encouraging and coordinating programmes and activities in the field of human rights. It reports to the Prime Minister on any matter affecting human rights, including the desirability of further legislative, administrative or other action to protect human rights or ensure better compliance with standards in international human rights instruments, the desirability of acceptance by New Zealand of any international instrument on human rights, and the implications of any proposed legislation (including delegated legislation) or policy which the Commission considers may affect human rights. The current members of the Human Rights Commission are the Chief Human Rights Commissioner, the Chief Ombudsman, the Race Relations Conciliator (see below), the Privacy Commissioner and not more than four other Human Rights Commissioners.

The Race Relations Act 1971

53. This Act specifically outlaws discrimination on the grounds of colour, race or ethnic or national origins in the areas of public access to places, vehicles and facilities, provision of goods and services, employment, land, housing and accommodation, and advertising. The Act also established the Race Relations Conciliator, who is also a member of the Human Rights Commission, to investigate alleged breaches of the Act.

The Human Rights Act 1993

54. This legislation, which comes into force on 1 February 1994 and repeals from that date the Human Rights Commission Act 1977 and the Race Relations Act 1971, has four key features. It:

(a) Amalgamates the Race Relations Act 1971 and the Human Rights Commission Act 1977 to make the law clearer and easier to understand. The remedies remain, but the different procedures are clarified;

(b) Provides for the restructuring of the Human Rights Commission to make it more effective. A Complaints Division, which includes the Race Relations Conciliator where race discrimination is alleged, is established to handle complaints of a breach by any of the Act's provisions. The removal of this function allows the full Commission more time to devote to general human rights issues;

(c) Adds six new grounds on which discrimination is unlawful - disability (including the presence in the body of organisms capable of causing illness), age (in areas additional to employment which was already covered by the Human Rights Act 1977), political opinion, employment status, family status, and sexual orientation. These grounds, in addition to those previously contained in the Race Relations Act 1971 and the Human Rights Commission Act 1977, now apply to all the areas covered by those Acts. The Human Rights Act 1993 also contains new provisions relating to racial disharmony, sexual harassment and racial harassment;

(d) Introduces some new procedures to assist with the resolution of complaints, such as compulsory conferences;

(e) Provides for the Human Rights Commission to inquire into any matter, whether governmental or non-governmental, if it appears to it that human rights are being, or may be, infringed; and

(f) Instructs the Human Rights Commission to examine all the Acts and regulations that are in force in New Zealand, and the policy or administrative practice of the Government, and to report to the Minister of Justice before the end of 1998 on any conflicts with the provisions of the Human Rights Act, or any infringements on the spirit or intention of the Act.

55. The membership of the Human Rights Commission will now be the Chief Commissioner, a Commissioner appointed to be the Race Relations Conciliator, the Privacy Commissioner, a Commissioner appointed to be the Proceedings Commissioner, and not more than three other Human Rights Commissioners.

Ombudsman Act 1975

56. This Act provides for the appointment of Ombudsmen by the Governor-General on the recommendation of the House of Representatives. The Ombudsmen investigate any decision or recommendation made, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in her, his, or its personal capacity by any of the bodies listed in its Schedules. These investigations occur on a complaint from any

person or an Ombudsman's own motion. An Ombudsman may make such recommendations as she or he thinks fit and report these to the appropriate Department or organization and the Minister of Justice (if relevant). If the requested action is not taken within a reasonable time, then the report may be sent to the Prime Minister and reported to the House of Representatives.

57. When new bodies are created by statute, consideration is given to the desirability of including them in the Schedules to the Ombudsmen Act 1975 and the Official Information Act 1982.

Official Information Act 1982

58. This Act is designed to make official information more freely available, provide proper access by each person to official information relating to that person, to protect that official information to the extent consistent with the public interest and preservation of personal privacy, and to establish procedures for those purposes. Official information is carefully defined, and the bodies to which the Act is applicable are listed in Schedules.

59. Individuals and some bodies corporate may request bodies listed in the Schedules to make official information available. The Ombudsmen can investigate and review any refusal by a Department, Minister or organization to make official information available once requested. They then report to the relevant body with any recommendations. Departments and Ministers have a public duty to observe any recommendation unless the Governor-General, by Order in Council, directs otherwise. It is possible for the person who made the original request to review the making of such an Order in Council in the High Court, and to appeal to the Court of Appeal.

60. The Local Government Official Information and Meetings Act 1987 is a similar statute relating to official information held by local government authorities and public bodies.

Privacy Act 1993

61. This Act:

(a) Carries forward from the Privacy Commissioner Act 1991 the provisions establishing the Privacy Commissioner and making the Commissioner a member of the Human Rights Commission;

(b) Establishes 12 information privacy principles and 4 public register privacy principles with respect to:

(i) The collection, use and disclosure, by public and private sector agencies, of information relating to individuals; and

(ii) Access by each individual to information relating to that individual and held by public and private sector agencies;

(c) Applies the principles to both the public and private sectors;

(d) Gives the Privacy Commissioner jurisdiction to grant exemption from the principles, principally by way of codes of practice;

(e) Sets out controls on information-matching to apply to statutory matching provisions implemented by the public sector; and

(f) Gives the Privacy Commissioner jurisdiction to deal with complaints about breaches of the principles and about breaches of the information-matching controls. The Commissioner may refer a complaint to an Ombudsman if appropriate.

Police Complaints Authority Act 1988

62. This Act is to make better provision for the investigation and resolution of complaints against the police by establishing an independent Police Complaints Authority. The Authority can receive and investigate complaints about the police, and investigate any apparently related misconduct, practice, policy or procedure. It then conveys its opinion and recommendations to the Police Commissioner. If no action is taken, the opinion and recommendations are sent to the Attorney-General and Minister of Police and, where appropriate, tabled in the House of Representatives.

63. Many of the statutes noted above contain various exceptions from the general rights affirmed in those statutes. These are set out in the various statutes.

64. The Human Rights Commission, the Race Relations Conciliator, the Privacy Commissioner and the Police Complaints Authority report annually to the Minister of Justice on the exercise of their functions under their Acts. The Ombudsmen report annually to the House of Representatives.

B. Remedies available to an individual who claims that any of his or her rights have been violated, and what systems of compensation and rehabilitation exist for victims

65. An individual who claims that any of his or her rights protected by the Human Rights Commission Act or Race Relations Act have been violated may complain to the Human Rights Commission or Race Relations Conciliator. These bodies will investigate the claim and attempt to settle it by conciliation. If appropriate, the Commission or Conciliator will attempt to secure an assurance against the repetition of any act or omission which was the subject of the complaint.

66. Both the Human Rights Commission Act and Race Relations Act focus on the conciliation of complaints of discrimination. However, where conciliation fails, civil proceedings can be brought before the Complaints Review Tribunal (formerly the Equal Opportunities Tribunal). The Tribunal has jurisdiction to make a range of orders, including orders restraining or directing certain conduct, and to make interim orders to preserve the position between parties pending resolution of a complaint. The Tribunal may award damages for pecuniary loss or injury to feelings and has a discretion to award such other relief as it thinks fit.

67. Complaints Review Tribunal decisions may be appealed to the High Court whose decision is final.

68. The Employment Tribunal and Employment Court also have some jurisdiction in relation to personal grievance claims and claims concerning a breach of an employment contract. Matters covered by personal grievance procedures include claims of unjustified dismissal, discrimination, unjustifiable action by an employer, sexual harassment and duress in relation to membership or non-membership of an employees' organization. Decisions of the Employment Tribunal can be appealed to the Employment Court.

69. Finally, the District Court has jurisdiction under section 24 of the Race Relations Act in respect of the offence of refusing access to a public place, vehicle or facility and under section 25 of that Act for the offence of inciting racial disharmony. Such prosecutions may be instituted only with the consent of the Attorney-General.

70. New Zealand citizens may also avail themselves of the complaint provisions under the Optional Protocol to the International Covenant on Civil and Political Rights. New Zealand has also made the declaration under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment recognizing the competence of the Committee against Torture to receive communications from individuals subject to its jurisdiction.

C. Protection of the rights referred to in the various human rights instruments either in the Constitution or by a separate Bill of Rights, and provisions made in the Constitution or Bill of Rights for derogations

71. New Zealand does not have a single constitutional document. The constitutional framework comprises the Constitution Act 1986 and a number of statutory and customary law provisions which are given coherence by the operation of unwritten rules known as "conventions". The framework is erected on and maintained by the ordinary law and not through the operation of a supreme or basic law such as that found in other jurisdictions. For this reason, although New Zealand does have a Bill of Rights, which was enacted in the New Zealand Bill of Rights Act 1990, it is not an entrenched Bill of Rights. The Bill of Rights Act 1990 is, however, limited by the fact that the rights and freedoms contained within that Act may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society, and that wherever an enactment can be given meaning that is consistent with the rights and freedoms contained in the Bill of Rights, that meaning shall be preferred to any other meaning. The courts, however, have no power to strike down legislation on the basis of inconsistency with the Bill of Rights.

D. How human rights instruments are made part of the national legal system

72. International agreements do not automatically become part of the law of New Zealand simply by the process of ratification, accession or acceptance of a treaty. For an international agreement to have domestic effect either its

provisions must be reflected already in New Zealand's existing law or new legislation must be enacted. Before becoming a party to an international human rights instrument, therefore, the Government reviews New Zealand's domestic law to see what additional legislation, or amendments to existing legislation, might be necessary to ensure the full and effective implementation of the agreement in New Zealand law, or whether reservations might be necessary.

E. Whether the provisions of the various human rights instruments can be invoked before, or directly enforced by, the courts, other tribunals or administrative authorities or whether they must be transformed into internal laws or administrative regulations in order to be enforced by the authorities concerned

73. Generally, in order to be invoked by courts or tribunals, the rights protected by international human rights instruments must have been transformed into internal statute law. However, in some cases, a court has inferred, as a matter of statutory interpretation, that Parliament intended that regard should be had to international obligations.

F. Institutions or national machinery with responsibility for overseeing the implementation of human rights

74. As noted in section A above, the Human Rights Commission has responsibilities in the area of human rights generally and the Race Relations Conciliator and the Privacy Commissioner have responsibilities in respect of racial discrimination and information respectively. A Commissioner for Children, established under the Children, Young Persons and Their Families Act 1989, has responsibility in the area of welfare of children and young persons.

IV. INFORMATION AND PUBLICITY

75. One of the statutory functions of the New Zealand Human Rights Commission is to promote respect for and observance of human rights through education and publicity. The Commission has produced a wide selection of pamphlets, booklets, posters and videos covering topics from the role and functions of the Commission to broader human rights issues. The Commission has also published a booklet with the texts of international human rights instruments and a poster with the text of the United Nations Declaration of Human Rights in both Maori and English. The International Covenant on Civil and Political Rights has also been translated into Maori. The Commission has also recently increased its involvement in training and education programmes regarding sexual harassment, including a pamphlet entitled "Sexual Harassment in the Workplace", which has been translated into Maori, Tongan and Samoan. The Human Rights Commission produces a quarterly newsletter and maintains a library and video library.

76. The Human Rights Commission meets a wide range of organizations, visiting schools and other educational organizations, services and professional groups throughout the country. The scope is extended through a group of voluntary networkers.

77. The Commission is planning to extend its education, publicity and research programmes over the next three years, with particular emphasis on New Zealand and the Treaty of Waitangi.

78. The Ministry of Foreign Affairs and Trade is responsible for coordinating the preparation of New Zealand's periodic reports to the United Nations human rights treaty bodies. The Ministry of Woman's Affairs and the Ministry for Youth Affairs draft the reports under the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child respectively. New Zealand also provides for the preparation of reports in respect of Tokelau. Niue and the Cook Islands have full competence for the implementation of the obligations under the international human rights instruments and therefore are responsible for the preparation of the relevant reports, with assistance from New Zealand as requested.

79. The text of New Zealand's reports, and a summary of the relevant Committee's consideration of the report, including the specific questions of the Committees, have been published by the Ministry of Foreign Affairs and Trade and are available free of charge to the public.